

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DAEVON LYONS, 01-R-4760,

Plaintiff,

v.

MICHAEL MCGINNIS, et. al.,

Defendants.

DECISION & ORDER

04-CV-6157L

On April 6, 2004, plaintiff filed a *pro se* complaint, pursuant to 42 U.S.C. § 1983, alleging, *inter alia*, that defendants violated his constitutional rights under the Fifth, Eighth and Fourteenth Amendments. (Docket # 1). According to plaintiff, the Superintendent of Southport Correctional Facility, Michael McGinnis, and other named defendants, conspired to compel him to confess to a crime he did not commit by subjecting him to cruel and unusual conditions of confinement, including beatings, harassment and deprivation of food and sleep.

On October 20, 2005, plaintiff moved this Court to compel defendants' responses to numerous interrogatories and to compel responses to his Third and Fourth Requests for Production of Documents. (Docket # 86). A motion scheduling order was thereafter issued by the Court requiring defendants to submit a response to the motion by November 18, 2005. (Docket # 89). Although defendants failed to submit a response to the motion, they have since provided plaintiff with answers to each of his requests except for his Fourth Request for the Production of Documents. By letter dated December 8, 2005, plaintiff wrote to this Court

advising of defendants' deficiency relating to that request. (Docket # 101). This letter was inadvertently docketed as a subsequent motion to compel and, by Order dated December 14, 2005, defendants were permitted until January 6, 2006, to respond. (Docket # 102). Once again, however, defendants have failed to comply with the scheduling order and, as of January 9, 2006, have yet to respond to plaintiff's document request. Accordingly, plaintiff's motion to compel **(Docket # 101)** is hereby **GRANTED**. Defendants shall file a response to plaintiff's Fourth Request for the Production of Documents by **January 20, 2006**.

IT IS SO ORDERED.

s/Marian W. Payson

MARIAN W. PAYSON
United States Magistrate Judge

Dated: Rochester, New York
January 9, 2006.